

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

HILDA L. SOLIS, Secretary of Labor,
United States Department of Labor,

| No.

Plaintiff,

5

GREAT DRAGON, Inc., a corporation dba King Buffet; SUPER CHINA BUFFET, Inc. a corporation; XIU LAN CHEN, individually, and YUN CHENG ZHENG, individually

COMPLAINT – Labor

Defendants.

Plaintiff Hilda L. Solis, Secretary of Labor, United States Department of Labor, brings this action pursuant to Section 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 *et seq.*) (the “Act”) to enjoin Defendants from violating the provisions of Section 15(a)(2) and 15(a)(5) of the Act. Plaintiff also and separately brings this action: (1) pursuant to Section 16(c) of the Act, for the recovery of a Judgment against Defendants for unpaid minimum wage and overtime compensation due Defendants’ employees and liquidated damages in an amount equal thereto, or in the event liquidated damages are not awarded, pre-judgment interest computed on the unpaid wages due; and (2)

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Office of the Solicitor
U.S. Department of Labor
1111 Third Avenue, Suite 945
Seattle, Washington 98101
(206) 553-0940

1 pursuant to Section 17 of the Act, for the recovery of a Judgment restraining Defendants
2 from withholding payment of unpaid overtime compensation due Defendants' employees.

3 I
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5 Sections 16(c) and 17 of the Act, and 28 U.S.C. §§ 1331 and 1345 confer jurisdiction of
6 this action upon the Court.

7 II
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9 A. Defendant GREAT DRAGON, Inc is a Washington corporation dba King Buffet
10 with its principal place of business located at 5303 Evergreen Way, Everett, WA, 98203 within
11 the jurisdiction of this court, where it is engaged in the restaurant business. Defendant GREAT
12 DRAGON operates two restaurants under the trade name King Buffet.

13 B. Defendant SUPER CHINA BUFFET, Inc is a Washington corporation dba Super
14 China Buffet with its principal place of business located at 15323 Westminster Way N.,
15 Shoreline WA 98133 within the jurisdiction of this court, where it is engaged in the restaurant
16 business.

17 C. Defendant YUN CHENG ZHENG was, at all relevant times, president of
18 Defendant GREAT DRAGON, Inc., an owner of both corporate defendants, and was involved in
19 day-to-day operations of all three restaurants.

20 D. At all times relevant to this Complaint, Defendant Yun Cheng Zheng was an
21 employer within the meaning of the Fair Labor Standards Act as set forth at 29 U.S.C. §203(d),
22 in that he is a person acting directly or indirectly in the interest of Defendants (employers) in
23 relation to their employees listed on Exhibit A.

24 E. Defendant XIU LAN CHEN was, at all relevant times, president of Defendant
25 SUPER CHINA BUFFET, Inc., and was involved in day-to-day operations of all three
26 restaurants.

27 F. At all times relevant to this Complaint, Defendant Xiu Lan Chen was an employer
28 within the meaning of the Fair Labor Standards Act as set forth at 29 U.S.C. §203(d), in that she

1 is a person acting directly or indirectly in the interest of Defendants (employers) in relation to
2 their employees listed on Exhibit A.

3 III

4 At all times relevant to this Complaint, Defendants employed employees in and about
5 their place of business in ordering, receiving, preparing, storing, handling, and/or selling goods
6 and materials which have been transported, shipped, or delivered from points outside the State of
7 Washington; in preparing, transmitting, mailing, or receiving transmissions, reports, letters,
8 correspondence, billings, or remittances to and from points outside the State of Washington; and
9 in using the facilities of commerce. Said employees, by reason of the above activities, were
10 engaged in commerce within the meaning of the Act.

11 IV

12 At all times relevant to this Complaint, the activities of Defendants referred to above
13 were and are related and performed through unified operation or common control for a common
14 business purpose, and constitute an enterprise within the meaning of Section 3(r)(1) of the Act.

15 V

16 At all times relevant to this Complaint, said enterprise had employees engaged in
17 commerce or in the production of goods for commerce, including employees handling, selling,
18 building or otherwise working on goods or materials that have been moved in or produced for
19 commerce, as aforesaid. Said enterprise at all times relevant to this Complaint has had an annual
20 gross volume of sales made or business done of not less than \$500,000 (exclusive of excise taxes
21 at the retail level stated separately). By reason thereof, said enterprise at all times relevant to this
22 Complaint was an enterprise engaged in commerce or in the production of goods for commerce
23 within the meaning of Section 3(s)(1)(a) of the Act.

24 VI

25 Defendants willfully violated the provisions of Sections 7 and 15(a)(2) of the Act by
26 employing employees engaged in commerce or in the production of goods for commerce, or in
27

1 an enterprise engaged in commerce or in the production of goods for commerce, for workweeks
2 longer than forty (40) hours since November 15, 2005 without compensating said employees for
3 their employment in excess of 40 hours in such work weeks at rates not less than one and one-
4 half the regular rates at which they were employed.

5 VII

6 Defendants willfully violated the provisions of Sections 6 and 15(a)(2) of the Act by
7 employing employees engaged in commerce or in the production of goods for commerce, or in
8 an enterprise engaged in commerce or in the production of goods for commerce, at an hourly rate
9 less than the federal minimum wage.

10 VIII

11 Defendants violated the provisions of sections 11 and 15(a)(5) of the Act (29 U.S.C. §§
12 211 and 215(a)(5)) by failing to make, keep, and preserve records of the persons employed by
13 Defendants, and of the wages, hours, and other conditions and practices of employment
14 maintained by Defendants, as required by the Act.

15 IX

16 Defendants violated the monetary provisions of the Act as alleged in paragraphs VI and
17 VII above, and, as a result, Defendants are liable for unpaid minimum wage and overtime
18 compensation, lost wages, and an equal amount in liquidated damages under Section 16(c) of the
19 Act.

20 **WHEREFORE**, cause having been shown, Plaintiff prays for a Judgment against
21 Defendants as follows:

22 (1) For an Order pursuant to Section 17 of the Act permanently enjoining and restraining
23 Defendants, their officers, agents, servants, employees, and all persons acting in their behalf and
24 interest from prospectively violating the provisions of Section 15(a)(2) and 15(a)(5) of the Act;
25 and

26 (2) For an Order:

(a) pursuant to Section 16(c) of the Act finding Defendants jointly and severally liable for unpaid minimum wage and overtime compensation found by the Court to be due Defendants' employees, and liquidated damages equal in amount to the unpaid compensation found due Defendants' employees, named in the attached Exhibit "A" and to employees as yet unknown to the Secretary or, in the event liquidated damages are not awarded, pre-judgment interest computed on the unpaid wages due;

(b) pursuant to Section 17 of the Act enjoining and restraining Defendants, their officers, agents, servants, employees, and all persons acting in their behalf and interest from withholding payment of unpaid minimum wage and overtime compensation found due Defendants' employees and pre-judgment interest computed at the underpayment rate established by the Secretary of Treasury pursuant to 26 U.S.C. 6621; and

(3) For an Order granting such other and further relief as may be necessary and appropriate.

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DATED this 7th day of December 2009.

Deborah Greenfield
Acting Deputy Solicitor

Lawrence Brewster
Regional Solicitor

Bruce L. Brown
Associate Regional Solicitor

Matthew Vadnal
Trial Attorney

/s Matthew L. Vadnal
By: Matthew L. Vadnal
WSBA 9437
U.S. DEPARTMENT OF LABOR
Counsel for Plaintiff,
1111 Third Ave., Suite 945
Seattle, WA 98101
Tel: (206) 553-0940; Fax: (206) 553-2768
E-mails: brown.bruce.l@dol.gov
vadnal.matthew@dol.gov